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Equal Employment Opportunity Commission v. Ajay Theaters, LLC, d/b/a Hollywood 20 Cinema

Judge Bernice B. Donald

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Equal Employment Opportunity Commission v. Ajay Theaters, LLC, d/b/a Hollywood 20 Cinema

Keywords

EEOC, Ajay Theaters LLC, Hollywood 20 Cinema, 04-2426-DV, Consent Decree, Hostile Work Environment, Sexual Harassment, Constructive Discharge, Sex, Female, Media, Employment Law, Title VII

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY Whe D.C.

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EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

AJAY THEATERS, LLC
d/b/a HOLLYWOOD 20 CINEMA,

Defendant.

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

CIVIL ACTION NO.

04-2426-D V

CONSENT DECREE

This lawsuit was filed June 7, 2004 by the Equal Employment Opportunity Commission (EEOC) against Ajay Theaters, LLC doing business as Hollywood 20 Cinema (Ajay) under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. (Title VII). The Complaint in this lawsuit claims that Ajay discriminated against Susan Johnson, Shannon McHugh, Amy Shook, Sarah Allen, Sarah Morris, Jennifer Tichenor, Taryn Lamberth, Samantha Ransdell, and Andria Medina, because of their sex, by subjecting them to sexual harassment and by constructively discharging some of them.

EEOC and Ajay have agreed to this consent decree to settle all of the claims involved in this lawsuit.

The Court has reviewed the terms of this decree in light of the applicable laws and regulations, and hereby approves this decree. **THEREFORE**, it is hereby **ORDERED**:

This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 7/6/05

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I. JURISDICTION

The United States District Court for the Western District of Tennessee, Western Division, has jurisdiction over the parties and subject matter of this lawsuit, and will retain jurisdiction over this decree for purposes of enforcement and dispute resolution.

II. DISCLAIMER

Neither the negotiation of nor agreement to this decree is an admission or acknowledgment by Ajay that any of its employees, officers, directors, or agents have violated Title VII.

III. DURATION OF DECREE

This decree will be binding on the parties to this lawsuit for one year after the date of its entry by the Court.

IV. INJUNCTIVE RELIEF

Ajay, its supervisors, managers, officers, directors, agents, and successors are enjoined from sexually harassing employees in violation of Title VII.

V. INDIVIDUAL REMEDIES

Ajay will pay a total of \$75,000.00 in monetary damages, as directed by EEOC, to Sarah Allen, Susan Johnson, Taryn Lamberth, Shannon McHugh, Andria Medina, Sarah Morris, Samantha Ransdell, Amy Shook, and Jennifer Tichenor, within thirty days after receipt of the payment instructions from EEOC. The payments will be made by mailing checks to the individuals at the addresses which will be provided by EEOC. A copy of the checks (front and back), will be mailed at the same time to:

Carson L. Owen, Senior Trial Attorney
Equal Employment Opportunity Commission
1407 Union Ave., Suite 621
Memphis, TN 38104

VI. TRAINING

Within thirty days after receiving a copy of this decree entered by the Court, Ajay will provide training for all of its employees concerning the responsibility of all employees not to harass other employees and to report promptly any harassment which occurs. This training will also address the responsibility of supervisors and managers to deal quickly, effectively, and fairly with any harassment found to have occurred, and not to retaliate against employees for complaining about unlawful harassment or filing charges with EEOC. Within twenty days after the completion of this training, Ajay will submit a report to Carson Owen, at the address indicated above, confirming that this training has occurred.

VII. POLICY PROHIBITING HARASSMENT

The policy prohibiting harassment which is attached to this decree will be complied with by Ajay. Each employee will be required to read and sign a copy of this policy, and will be given a copy of the policy. Within thirty days after receiving a copy of this decree entered by the Court, Ajay will submit a report to Carson Owen, at the address indicated above, confirming that this requirement has been complied with. Thereafter, whenever a new employee is hired, he or she will be required to read and sign a copy of this policy, and will be given a copy of the policy.

VIII. REPORTING

Ajay will submit a report to Carson L. Owen, at the address indicated above, six months after the entry of this decree, and every six months thereafter during the duration of this decree. Each report will describe all complaints received from employees employed at Hollywood 20 Cinema concerning harassment at work, including the name, home address, and home telephone number of each employee who complained, the nature of the complaint, what action, if any, was taken in response to the complaint, and if no action was taken an explanation of why no action was taken.

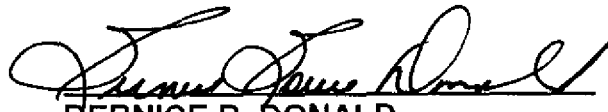
IX. POSTING OF NOTICE

Within ten days after receiving a copy of this decree entered by the Court, Ajay will post the notice attached to this decree for thirty days in a conspicuous place upon its premises where notices to employees are customarily posted. Within fifty days after receiving a copy of this decree entered by the Court, Ajay will send a letter to Carson Owen, at the address indicated above, verifying that this requirement has been complied with.

X. ATTORNEY'S FEES AND COSTS

EEOC and Ajay will each bear their own attorney's fees and costs incurred in this lawsuit.

SO ORDERED this 5th day of July, 2005.


BERNICE B. DONALD
UNITED STATES DISTRICT JUDGE

Consented to on behalf of the respective parties:

FOR PLAINTIFF EEOC:

ERIC S. DREIBAND


General Counsel

JAMES LEE

Deputy General Counsel

GWENDOLYN YOUNG REAMS

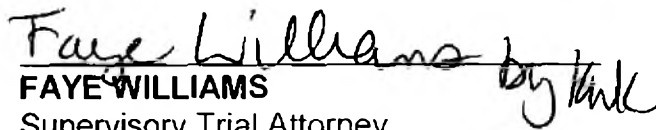
Associate General Counsel



KATHARINE W. KORES

Regional Attorney

Tennessee Bar No. 006283



FAYE WILLIAMS

Supervisory Trial Attorney

Tennessee Bar No. 011730



CARSON L. OWEN

Senior Trial Attorney

Tennessee Bar No. 009240

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION**

1407 Union Avenue, Suite 621

Memphis, Tennessee 38104

Telephone No. (901) 544-0133

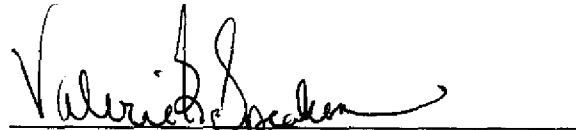
FOR DEFENDANT:



DEEPAK A. KESHANI

Chief Manager, Ajay Theaters LLC

d/b/a Hollywood 20 Cinema



VALERIE B. SPEAKMAN

**JACKSON SHIELDS YEISER HOLT
SPEAKMAN & LUCAS**

262 German Oak Dr.

Memphis, TN 38018

Telephone No. (901) 754-8001

ATTORNEYS FOR DEFENDANT

EXHIBIT NO. 3

3-18-05

HARASSMENT POLICY**HARASSMENT OF EMPLOYEES
(Sexual, Racial, Ethnic, Religious)**

1. **Purpose.** We strive for a working environment for employees that is free from sexual, racial, ethnic, and religious harassment. It shall be a violation of this policy for any employee to participate in harassment activities exhibited through disparaging conduct or communication that is sexual, racial, ethnic or religious in nature. The following guidelines are set forth to create an appropriate working environment.
2. **Policy.** Harassment of employees will not be tolerated. Harassment is defined as conduct, advances, gestures, words (or pictures) either written or spoken, of a sexual, racial, ethnic or religious nature which:
 - a. Unreasonable interfere with an individual's work or performance;
 - b. Create an intimidating, hostile or offensive work environment;
 - c. Imply that submission to such conduct is made an explicit or implicit term of employment; or
 - d. Imply that submission to or rejection of such conduct will be used as a basis for an employment decision affecting the harassed employee.

Alleged victims of sexual, racial, ethnic or religious harassment shall report these incidents immediately. This report should be made to the immediate supervisor except when the immediate supervisor is the offending party. If the immediate supervisor is the offending party, the report may be made to Deepak Keshani at 901-763-1405 Ext 13 or P O Box 772097, Memphis, TN 38177. Allegations of harassment will be investigated. An oral complaint may be submitted, however, such complaint may be reduced to writing to assist in a more complete investigation. The complaint should include the following information:

Identity of the alleged victim and the person accused; location, date, time and circumstances surrounding alleged incident; description of what happened; identity of witnesses; and, any other evidence available.

3. **Questions.** Any questions regarding this policy should be addressed with Deepak Keshani.
4. **Investigation.** All Complaints will be investigated, and information will be treated as confidentially as necessary for the investigation. Where investigation confirms the offensive behavior, prompt corrective action will be taken.
5. **No Reprisals.** There will be no retaliation against any person who reports harassment or participates in an investigation. However, any employee who refuses to cooperate or gives false information during the course of an investigation may be subject to disciplinary action. The willful filing of a false report will itself be considered harassment and will be treated as such.
6. **Other Forms.** Other forms of harassment, even though not specifically listed above, should also be reported and will subject the offending employee to disciplinary action up to and including discharge.

I have read and understood this harassment policy and I have been given a copy of this policy to keep in my possession. Name, Printed / Signature / Date

NOTICE

EEOC enforces Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits employment discrimination based on race, color, religion, sex (including sexual harassment), or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; sections of the Civil Rights Act of 1991; and Title I of the Americans With Disabilities Act, which prohibits discrimination against people with disabilities. Hollywood 20 supports these Federal laws in all respects.

Three former employees of ours filed charges with EEOC complaining that they had been sexually harassed by their managers and a co-worker. We have denied those claims. EEOC filed a lawsuit against us based on the charges.

The lawsuit has now been concluded. We do not now or ever wanted any employee to feel they have been harassed. We have trained our managers about their responsibilities not to harass employees, to report all complaints about harassment, to respond quickly, effectively, and fairly whenever harassment is found to have occurred, and not to retaliate against employees who complain. We have a harassment policy, and all of you have seen it and signed it. We will not tolerate harassment of anyone in the workplace. It is your responsibility to help us make sure no harassment occurs, and, if it does, that it is reported.

A handwritten signature in black ink, appearing to read "D. H. Keshani", written over a horizontal line.

Deepak Keshani, Chief Manager
Ajay Theaters LLC d/b/a Hollywood 20 Cinema



Notice of Distribution

This notice confirms a copy of the document docketed as number 48 in case 2:04-CV-02426 was distributed by fax, mail, or direct printing on July 7, 2005 to the parties listed.

Faye A. Williams
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Adam M. Nahmias
JACKSON SHIELDS YEISER HOLT SPEAKMAN & LUCAS
262 German Oak Dr.
Memphis, TN 38018

Valerie B. Speakman
JACKSON SHIELDS YEISER HOLT SPEAKMAN & LUCAS
262 German Oak Dr.
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James L. Holt
JACKSON SHIELDS YEISER HOLT SPEAKMAN & LUCAS
262 German Oak Dr.
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Katharine W. Kores
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Carson L. Owen
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1407 Union Avenue
Ste. 621
Memphis, TN 38104

Honorable Bernice Donald
US DISTRICT COURT